



Indiana Judicial Nominating Commission
30 South Meridian Street
Suite 500
Indianapolis, IN 46204
(317) 232-4706

APPLICATION
FOR THE
INDIANA TAX COURT

(SEE INSTRUCTIONS)

Deadline – Monday, September 20, 2010

I. Provide your:

A. Full legal name and any former names.

Carol S. Comer

B. Current home and office addresses, including email addresses and telephone numbers.

Indiana Board of Tax Review
100 North Senate Avenue, Room N-1026
Indianapolis, Indiana 46204
ccomer@ibtr.in.gov
(317) 232-3776

C. Date and place of birth.

August 31, 1966, Willoughby, Ohio

II. Complete a State Police release form printed on green paper. Include the release only with the original application and not with the copies.

III. Attach a recent photograph of you to the front of the original application and to each copy of your application.

IV. A. State in what county you currently reside and since what date.

I have resided in Marion County, Indiana, since 1978, except for two years in which I lived and worked in Arizona. However, my family is all from Jasper County, Indiana, and I consider Rensselaer my home.

B. List all previous counties of residence, with dates.

Maricopa County, Arizona, 2003-2005
Lake County, Ohio 1966-1978

C. When were you admitted to the Indiana Bar?

1996

D. Are you currently on active status?

Yes

E. What is your attorney number?

19305-49

V. A. List below all colleges and universities you attended other than law schools. Attach a certified transcript from each to the original application and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>
Indiana University at Indianapolis	1992-1996	Masters of Public Administration
Indiana University at Indianapolis	1985-1989	Bachelors of Science in Business
Purdue University	1984-1985	

Copies of these transcripts are attached at Tab 1.

B. List below all law schools and post-J.D. programs attended. Attach a certified transcript from each to the original application and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree and Class Rank</u>
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A copy of this transcript is attached at Tab 1.

C. Describe any academic honors, awards, and scholarships you received and when.

At Indiana University School of Law at Indianapolis, I was chosen as Indiana University School of Law's first Environmental Law Fellow. In addition, I was awarded an American Jurisprudence Award in Constitutional Law. I was also awarded an IU Scholarship and the G. Kent Frandsen Scholarship. During my undergraduate studies, I was named a Hoosier Scholar and awarded the Mary Chattaway Marketing Scholarship.

VI. A. Provide your employment history since graduation from college, including titles or positions, locations, and dates.

Indiana Board of Tax Review, 100 West Washington Street, Suite N1026, Indianapolis, Indiana 46204 (317-232-3786). Senior Administrative Law Judge. August 2005 – present.

Lewis and Roca LLP, 40 North Central Avenue, Suite 1900, Phoenix, Arizona 85004 (602-262-5311). Of Counsel. May 2003 – June 2005.

Indiana Utility Regulatory Commission, PNC Center, 101 West Washington Street, Suite 1500 E, Indianapolis, Indiana 46204 (317-232-2701). Administrative Law Judge. April 2002 – April 2003.

Plews Shadley Racher and Braun, 1346 North Delaware Street, Indianapolis, Indiana 46202 (317-637-0700). Associate. March 1996 – March 2002.

Indiana University School of Law, 530 West New York Street, Indianapolis, Indiana 46202 (317-274-8523). Research Assistant. May 1995 – May 1996.

Stark Doninger and Smith, (presently Doninger Touhy and Bailey), 50 South Meridian Street, Suite 700, Indianapolis, Indiana 46204 (317-638-2400). Law Clerk. October 1991 – March 1995.

A copy of my resume is attached at Tab 2.

¹ Despite working full time and attending law school at night pursuing a joint degree, I finished my legal studies in the top 25% of my class – 62nd out of 248 students. However, during my tenure at Indiana University School of Law, the Law School adjusted its grading policy from a 2.65-2.75 average to a 2.9-3.1 average. Thus, my ranking dropped as I completed my School of Public and Environmental Affairs studies and was later ranked with law students graded on a higher average. See the letter from Susan K. Agnew, Recorder, Indiana University School of Law, Indianapolis, attached at Tab 1.

B. If applicable, describe the nature and extent of your practice of law, present and former, and provide the names of your partners, associates, office mates, and employers.

Indiana Board of Tax Review - Presided over property tax appeals and supervised and trained field hearing officers. Areas of review included real property valuation, property tax exemptions and personal property appeals.

Chairman Robert Wente - (317) 232-3783

Commissioner Betsy Brand - (317) 232-3784

Mr. Rick Barter - (812) 480-1626

Lewis and Roca LLP - Participated in civil litigation and administrative proceedings on environmental and utility matters. Responsible for client files and supervised associate research and briefing. Practice areas included utility regulation and line siting; hard rock mineral mining; air and water permit appeals; counseling clients and defending against agency actions under EPCRA, RCRA, the Clean Water Act and the Clean Air Act; and assisted with real estate and corporate environmental due diligence.

Mr. Thomas Campbell - (602) 262-5723

Mr. Craig Phillips - (602) 262-5345

Mr. Albert Acken - (602) 262-5706

Indiana Utility Regulatory Commission - Presided over telecommunications, and gas, water and electric utility matters. Areas of review included utility certification, interconnection requirements, and rate regulation.

The only Commissioner remaining at the IURC that I worked with is David E. Ziegner. There was a brief over-lap with Commissioner Landis. However, I worked very little with him. Both Commissioners can be reached at (317) 232-2701.

Plews Shadley Racher and Braun - Participated in civil litigation and administrative proceedings in commercial and environmental matters. Areas of practice included environmental insurance recovery; air and water permit appeals; solid waste disposal facilities zoning and permitting; underground storage tank upgrade and removal oversight; Superfund defense and cost recovery; remedial oversight; defending against agency actions under TSCA, RCRA, the Clean Air Act and the Clean Water Act; utility permitting and regulatory certification; and real estate transactions and due diligence.

Mr. George W. Plews - (317) 637-0700
Ms. Sue A. Shadley - (317) 637-0700
Mr. Christopher J. Braun - (317) 637-0700

Indiana University School of Law - Researched issues of environmental law and policy.

Professor Daniel H. Cole (317) 274-2340

Stark Doninger and Smith - Assisted in environmental and corporate litigation and transactions. Areas of practice included underground storage tank regulation and remediation; real estate transactions; real estate and environmental due diligence; zoning; incorporation and corporate registration and property tax appeals.

Mr. John W. VanBuskirk - (317) 638-2400
Ms. Patricia Seasor-Bailey - (317) 638-2400

C. Describe the extent of your jury experience, if any.

I do not have specific jury experience. Instead, I have fifteen years experience in practicing administrative law - including environmental regulation, utility regulation and tax law. Because this position is an appellate judgeship that is unique in that it uniformly reviews administrative issues, I believe that experience is more relevant to this Commission. As a private practice attorney, I briefed and argued matters in various administrative forums including the Indiana Office of Environmental Adjudication, the Indiana Utility Regulatory Commission, the Arizona Line Siting Commission and the hearings division of the Arizona Department of Environmental Quality. In addition, I briefed and argued appeals from those forums, employing the right to judicial review, or defending a client's rights during judicial review. Most recently, I defended the issuance of an air quality permit before the Maricopa County Superior Court and, thereafter, I briefed the matter for the Arizona Court of Appeals. Further, I have presided over dozens of administrative hearings at both the Indiana Utility Regulatory Commission and presently at the Indiana Board of Tax Review. Perhaps most relevant to this inquiry, I am thoroughly familiar with administrative procedures, the standard of judicial review in administrative proceedings, and the body of tax law that has been issued by the Indiana Tax Court during Judge Fisher's tenure.

D. If applicable, describe the nature and extent of your judicial experience, including a description of your experience presiding over jury trials, if any.

I presided over utility issues as an administrative law judge at the Indiana Utility Regulatory Commission between 2002 and 2003 and I have been an administrative law judge at the Indiana Board of Tax Review since 2005. In

my five years of being an ALJ at the Board, I have drafted orders on literally hundreds of property tax and exemption appeals. In that time, I have presided over matters brought and argued by *pro se* homeowners involving a few thousand dollars worth of assessed value and presided over matters involving a dozen lawyers where hundreds of millions of dollars of assessed value was at issue. At the Board, I have heard personal property appeals, real property tax appeals and requests for exemptions. Prior to that, at the IURC, I presided over matters involving rate-making, certification of necessity and interconnection requirements.

VII. A. If applicable, list by caption, case number, and filing date up to five of your trial or appellate briefs and/or written judicial opinions.

Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Property Tax Assessment Board of Appeals, Indiana Board of Tax Review, Petition Nos. 71-022-05-2-8-00030 and 71-022-05-2-8-00031 (January 7, 2008); *affirmed* by the Indiana Tax Court in *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 909 N.E.2d 1138 (Ind. Tax Ct. 2009); *review denied* by the Indiana Supreme Court at 929 N.E. 2d 787 (Ind. 2010).

R. Keith Sandin Trust v. Michigan Township Assessor, et al., Indiana Board of Tax Review, Petition Nos. 46-021-04-1-5-00003 and 46-021-05-1-5-00002 (October 3, 2008); *affirmed* by the Indiana Tax Court in *R. Keith Sandin Trust v. Michigan Township Assessor, et al.*, Indiana Tax Court, Petition No. 49T10-0811-TA-63 (December 2, 2009) (not for publication), reported at 917 N.E.2d 733.

Charles L. and Verlene Schooler v. Boone County Assessor, Indiana Board of Tax Review, Petition No. 06-003-07-1-5-00444 (May 7, 2010).

Friends of Pinto Creek, et al. v. Arizona State Department of Environmental Quality and Carlota Copper Company, Maricopa County Superior Court, Cause No. CV 2003-022101 (filed April 4, 2004, decided February 8, 2005).

In the Matter of the Petition of Indiana Bell Telephone Company for Assignment of 1000 Block NXX Codes in the 317 NPA, Indiana Utility Regulatory Commission, Cause No. 42371 (March 5, 2003).

B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, by date, and by subject matter.

In 2007, I drafted a complete reworking of the Board's procedural rules, updating the regulatory framework that had been in place since the Board of Tax Review and the Department of Local Government Finance were a single agency known as the Board

of Tax Commissioners. Some of the more detailed regulatory changes came in the following regulations: 52 IAC 1-1-3.5; 52 IAC 1-2-1.1; 52 IAC 2-2-4; 52 IAC 2-2-13; and 52 IAC 2-4-2. The final rule is published in LSA Document #06-571(F).

I have also reviewed and provided comments on legislation relating to property tax assessment and property tax appeals including SEA 287 (P.L. 219-2007) which changed the deadlines for appeal procedures and removed property tax appeals from the Administrative Orders and Procedures Act; and HEA 1001 (P.L. 146-2008) which eliminated most township assessors and instituted property tax caps.

In addition, I have historically been involved in rule-making for environmental management and utility regulation including, most recently, Arizona's Hazardous Air Pollutant Program and Maricopa County's Rule 316, which addressed air contaminants from nonmetallic mineral mining and processing.

C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

"The Unauthorized Practice of Law," ICLEF, 10th Annual Indiana Property Tax Institute, April 2010;

"Indiana Board of Tax Review: Amendments to the Administrative Rules," ICLEF 8th Annual Property Tax Institute, March 2008;

"EPA's Proposed Standards for 'All Appropriate Inquiries' under CERCLA Expands the Requirements for Phase I Property Reviews," ENRLS Update, October 2004;

"Privacy Rights and Internet Issues," National Business Institute Seminar Materials, February 1999;

"Federalism and Environmental Quality: A Case Study of Packaging Waste Rules in the European Union," 7 FORDHAM ENVIRONMENTAL LAW JOURNAL 63, Fall 1995.

D. Include with your application copies of any four of the written materials listed above in Section VII. A., B., and C. (An adequate sampling can usually be supplied in 75 pages or less.)

A copy of the orders in *Jamestown Homes of Mishawaka* and *R. Keith Sandin Trust* and the brief in *Friends of Pinto Creek* are attached at Tab C. In addition, my revision to the Board's procedural rules, published at LSA Document #06-571(F), is attached at Tab 3.

E. Describe the nature and extent of any *pro bono* legal services you have contributed.

I assisted the Indiana Pro Bono Commission with the founding of Indiana Operation Enduring LAMP and represented soldiers with legal claims; I provided

radio reading for the visually impaired through the CIRRI Radio Network (WFYI) by providing a weekly “Hoosier Political Review” and through SunSounds in Arizona; I co-chaired Lewis and Roca’s United Way fundraising drive; I provided incorporation services without fee to a non-profit entity seeking to provide Haitian relief after the earthquake earlier this year; and volunteered for the Arizona Crime Victim’s Legal Assistance Project and Indiana’s Foreclosure Prevention Program.

F. Identify the five most significant legal matters entrusted to you whether as a judge or lawyer, and describe why you believe them to be so.²

1) Amendment of the Board’s procedural rules

On December 31, 2001, the legislature abolished the State Board of Tax Commissioners. 2001 Ind. Acts 198 § 119(b)(2). Effective January 1, 2002, the Legislature created the Department of Local Government Finance (DLGF) and the Indiana Board of Tax Review (the Board) in its place. Ind. Code §§ 6-1.1-30-1.1; 6-1.5-1-3 (West Supp. 2001); 2001 Ind. Acts 198 §§ 66, 95. In essence, the Indiana Board of Tax Review was the “successor” to the State Board’s appeals division charged with hearing all state-wide property tax appeals. At the time of its creation, the Board essentially adopted the rules of the former appeals division as its agency rules and it operated under those regulations for several years. Soon after joining the Board, I began to catalogue a number of inconsistencies (time periods counted in both “business” days and “calendar” days) and rules that had little application to the Indiana Board of Tax Review (such as the former 52 IAC 1-2-5, which dealt mainly with the DLGF’s grounds for suspension of a tax representative’s license). In addition, the Board was faced with situations that its rules did not contemplate (for example, the only representatives authorized to practice before the Board were “certified tax representatives” but assessors were often represented by a contracting company that had not undergone the process of becoming certified tax representatives). Thus, in 2007, I drafted rules specifically for the Board of Tax Review that addressed the unique situations the Board had been facing and finally severed the ties between the Board and the DLGF that still existed in the Board’s former rules. This was a year long process that resulted in the Board’s present rules, promulgated at 52 IAC *et seq.*

2) The Delineation of the unauthorized practice of law by tax representatives

Like the practice of real estate and the proliferation of real estate agents, the area of tax law is populated with non-lawyer professionals known as “tax representatives.” The Board of Tax Commissioner’s rules established educational and certification requirements for tax representatives, but still permitted such non-lawyers to represent taxpayers in appeals. After unsuccessfully attempting to enjoin implementation of the Commissioner’s rules, in 1998, the Indiana Bar Association filed suit to enjoin a specific tax representative from engaging in the practice of law based on his representation of a real estate development company in an appeal. *See State ex rel. Indiana State Bar Ass’n v. Miller*, 770 N.E.2d 328, 329 (Ind. 2002). A majority of justices on the Indiana Supreme Court found that the tax representative’s conduct amounted to

² I have also been involved in complex areas of statutory and regulatory interpretation in the environmental and utility areas. *See*, for example, the brief in *Friends of Pinto Creek, et al. v. Arizona State Department of Environmental Quality and Carlota Copper Company*, Maricopa County Superior Court, Cause No. CV 2003-022101 (February 8, 2005), attached at Tab 3. However, I felt that the significant areas of tax law I have addressed in the past five years at the Indiana Board of Tax Review would be more meaningful to this Commission.

the practice of law “at least as to the constitutional claim and where the preservation of issues for appeal was at stake.” 770 N.E.2d at 330. Chief Justice Shepard, in a dissenting opinion (with Justice Dickson joining) argued further - “Miller used, or attempted to use, all the tools of the legal profession to represent a client before a state adjudicative body. He deployed regulations and appellate court case law; he tendered evidence and made legal argument about it; he even presented state constitutional claims. Miller’s decision to practice law without a license was not a victimless crime. By the time the client’s appeal reached the Indiana Tax Court, it became apparent that the client’s interests had been damaged because Miller had failed to do for the client the things most licensed lawyers would have done.” *Id.* In both my revision of the Board’s rules and in my functions as an administrative law judge, I have assisted the Board in developing a body of case law delineating what acts constitute the “unauthorized practice of law.” Earlier this year, I specifically addressed this topic to lawyers, assessors, accountants and tax representatives at ICLEF’s “10th Annual Property Tax Institute.”

3) An Assessor’s Authority to Change an Assessment Between General Reassessment years

The value of all individual properties is determined periodically in a general reassessment which typically carries forward until the next general reassessment. Ind. Code § 6-1.1-4-4. The Tax Court in *K.P. Oil, Inc. v. Madison Township Assessor*, 818 N.E.2d 1006, 1008 (Ind. Tax Ct. 2004), stated that “Nevertheless, assessing officials may reassess real property between general reassessments in order to reflect changes to the property itself or in the use of the property that may increase or decrease the assessment value.” *K.P. Oil*, 818 N.E.2d at 1008 (citing Ind. Code § 6-1.1-4-25). Subsequent to the *K.P. Oil* case, the Board was faced with a series of cases claiming that, absent a change in the use or character of a property, an assessor had no authority to change a property’s assessment between general reassessment dates until the legislature adopted the annual assessment rules in 2006. *See* Ind. Code § 6-1.1-4-4.5. Contrary to the language of *K.P. Oil*, however, Indiana Code § 6-1.1-9-1, states that assessors may assess or increase assessments in interim years if the assessor “believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls...” In my recommended determination, I found that assessors had the authority to change an assessment between general reassessments prior to the annual assessment rules for several reasons. First, several statutes expressed a clear intent that assessments may change outside of the general reassessment procedures. *See* Ind. Code § 6-1.1-13-3 (requiring assessors to add undervalued or omitted property to the tax rolls); Ind. Code § 6-1.1-13-5 (requiring that assessments be increased or decreased to attain a just and equal basis of assessment between taxpayers); and Ind. Code § 6-1.1-4-30 (stating “[i]n making any assessment or reassessment of real property in the interim between general reassessments, the rules, regulations, and standards for assessment are the same as those used in the preceding general reassessment.”) Further, *K.P. Oil* was decided under Indiana’s old assessment system where assessments were correct as long as the assessment regulations were applied correctly. Indiana’s new assessment system, in contrast, shifts the focus from the application of the regulations to determining whether a property’s assessed value actually reflects the property’s market value-in-use. Thus, the Petitioner could have shown its assessment was wrong because it did not reflect the property’s market value-in-use. Instead the Petition chose to simply claim the assessor had no right to change its assessment.

4) The determination of the exempt status of low income housing properties

When property is exempt from taxation, the effect is to shift the taxes that a property owner would have paid for governmental services, such as fire and police protection and public education, to other parcels that are not exempt. Thus, deciding whether a property is entitled to an exemption requires a careful review of the facts and a strict interpretation of the law. After the Indiana Tax Court issued its decision in *College Corner, L.P. v. Department of Local Government Finance*, 840 N.E.2d 905 (Ind. Tax Ct. 2006), the Board began receiving exemption requests from a number of low income housing providers. In *Jamestown Homes of Mishawaka v. St. Joseph County Property Tax Assessment Board of Appeals*, Indiana Board of Tax Review, Petition Nos. 71-022-05-2-8-00030 and 71-022-05-2-8-00031 (January 7, 2008), the Petitioner entered into a contractual arrangement with the federal government to provide affordable housing in return for consideration that included a federally insured mortgage and a subsidized mortgage interest rate. The Petitioner provided no specific programs or services to its low-income tenants and, at the end of the mortgage period, the Petitioner owned the building and could rent the apartments without any restriction. In my recommendation to the Board denying the exemption, I found that the subsidized mortgage allowed the Petitioner to charge less for its units than it otherwise would have had to charge in order to cover its costs and provided the Petitioner with a competitive advantage that may have resulted in a higher occupancy than similar non-subsidized properties. In fact, the Petitioner's "Occupancy Agreement" stated that its "lower Monthly Housing Charge is available because the mortgage on this cooperative is subsidized by the Department of Housing and Urban Development (HUD)." Noticeably absent from its agreement was any suggestion that the lower monthly charge was due to any charitable purpose or intent of the Petitioner. Contrary to *Jamestown Homes*, in *Horace Mann Ambridge Neighborhood Improvement Organization v. Lake County Assessor*, Indiana Board of Tax Review, Petition No. 45-004-04-2-8-00015, *et seq.*, (June 9, 2009), I recommended that the Board grant an exemption. In that case, the Petitioner showed that the purpose of the Petitioner's organization was revitalization and neighborhood preservation and, as part of that mission, HMANIO provided housing to low-income individuals and families. There was no evidence that HMANIO provided the housing as part of a contractual agreement or as a condition precedent to receiving federal funds. In fact, although HMANIO received some state and federal funds, its activities were largely accomplished through grants and donations. More than just providing rental properties to low income families, however, HMANIO provided services to low-income families to help achieve their goal of home ownership, including financial counseling and a down-payment matching program.

5) The determination of taxable property interests

The Indiana Code, when addressing property tax issues, defines property that is subject to taxation as "real property" or "personal property" or even "tangible property." See Ind. Code §§ 6-1.1-1-11, 6-1.1-1-15, and 6-1.1-1-19. Contrary to states that define the taxable interest of real property as its "fee simple interest," the legislature in Indiana did not make clear the property interest that assessors should value for ad valorem tax purposes. Thus, various taxpayers appealed their assessments contending that properties encumbered by long term leases at below market rents should be assessed based on the property's leased fee value because potential investors would value the property based on its income producing potential. Although the taxpayers' market value arguments had facial appeal, decisions from various jurisdictions were more persuasive. First, valuing property based on its actual rent rather than market rent risks unintended consequences such as tax manipulation. For example, a lessor could escape the tax

burden that justly falls on its property by merely entering into a lease with below-market rent. Moreover, using actual rent from a long-term, below-market lease would result in non-uniform values for properties within the same class and cause identical properties to have different values for tax purposes in violation of constitutional uniformity requirements. Finally, using actual rents from a long-term, below-market lease does not reflect the value of all of the interests in a property. When a property is leased for below market rent, some property value is transferred from the lessor to the lessee. Thus, unless or until the leaseholder is taxed for the value of his leasehold estate, the property owner must be taxed for the value of the property in total. Therefore, in my recommended order to the Board, I determined the fee simple value, rather than a property's leased fee value, is the taxable interest for property tax purposes.

G. Provide the names, addresses, and telephone numbers of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Tax Court.

Thomas M. Atherton, BOSE MCKINNEY AND EVANS, 111 Monument Circle,
Suite 2700, Indianapolis, Indiana 46204 (317) 684-5348

Brent A. Auberry, BAKER AND DANIELS, 300 North Meridian Street, Suite
2700, Indianapolis, Indiana 46204 (317) 237-1076

Brian P. Popp, LAZLO AND POPP, 200 East 81st Avenue, Suite 200, Merrillville,
Indiana 46410 (219) 464-1440

VIII. A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice.

The practice of tax law, by its very nature, is a practice that is populated by *pro se* plaintiffs and petitioners. Whether it is a small business owner appealing a sales tax assessment by the Department of Revenue, a homeowner appealing his or her property tax assessment, or a taxpayer objecting to a school or library budget increase, many cases in the tax law area are driven by non-lawyer appellants. I am committed to continuing Judge Fisher's policy of an open court that encourages and assists taxpayers in pursuing their legal right to judicial review of their tax assessments.

With regards to encouraging to such *pro se* taxpayers, the Indiana Board of Tax Review developed "small claims procedures" allowing a quick resolution of small property tax appeal cases brought by home-owners and small business owners. In revising the procedural rules for the Board, I expanded the opportunity for taxpayers to fully explore the legal issues in their cases by allowing prehearing conferences and post-hearing submissions where such procedures would assist in the full and fair consideration of a matter. In addition, the rules removed many of the restrictions that previously would have

limited the case that a *pro se* petitioner could present in a small claims proceeding.

I have devoted many hours to training the field hearing officers I supervise to ensure that each *pro se* petitioner has a full and fair hearing of the issues he or she wishes to present before the Board. And these “small claims” issues are often topics of presentation at ICLEF’s Annual Property Tax Institute.

I fully support the right of taxpayers to appeal their taxes and that is a focus I would bring to the Indiana Tax Court if I am appointed to succeed Judge Fisher.

B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.

I come from a family of individuals that have devoted their lives to service to their country. My uncle was commanding officer at Camp LeJuene in North Carolina and my brother recently retired from the army as a major. After the terrorist attacks on September 11, 2001, the American Bar Association called for lawyers to provide pro bono representation to military personnel under a program called Operation Enduring LAMP (Legal Assistance for Military Personnel). Given my family history, I wanted to help in any way I could to see that the Enduring LAMP program succeeded in Indiana. To that end, working with the Indiana Pro Bono Commission and the Heartland Pro Bono Counsel, I presented at ICLEF programs on the Soldiers and Sailors Civil Relief Act and the Uniformed Services Employment and Re-employment Rights Act of 1994. I spent months speaking with lawyer groups to spark interest in assisting our military personnel. In addition, I met with military personnel to create awareness of the program. During that time, I personally represented two soldiers being deployed to Afghanistan. And since that time I have been assisting the Family Readiness group which supports the families of soldiers that have been deployed through the National Guard. Regardless of anyone’s belief in the “rightness” or the “effectiveness” of our actions in the Middle East, the soldiers serving their country and risking their lives deserve our support and I have made that a priority in my practice and in my life.

Copies of several articles supporting this work are attached at Tab 4.

C. List any memberships and offices you have held in civic or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

I am a member of the Franklin Central Christian Church and, in 1999 and 2000, I served as treasurer for the church.

D. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

I am a member of the Downtown GOP club and the Indiana Republican Party.

E. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

I am not a member of any social club.

F. Indicate your experience teaching law, and provide the dates, names of institutions or programs, and a description of the subject matter taught.

I teach property tax procedure to Professor Lawrence A. Jegen's state and local tax class at the Indiana University School of Law in Indianapolis each semester. In addition, every spring I present matters of appeal procedures to assessors, members of the tax bar, and tax representatives at the Indiana Continuing Legal Education Foundation's Annual Property Tax Institute. I also mentor an intern every semester from Indiana University School of Law which allows me to introduce two or three law students each year to all aspects of property tax law and administrative procedures.

G. Describe your hobbies and other leisure activities.

I enjoy hiking and cycling – anything that will get me outside and moving! I love to travel and have been virtually all over the world, starting with a trip to China upon graduating from law school and most recently – a trekking trip through Israel and Jordan. I am a voracious reader and consistently have five or six books going at the same time on my electronic reader. In addition, I am a closet writer who hopes to someday actually complete a novel. Finally, my family and my friends are my greatest blessing and I try to spend as much time in their company as I can.

IX. A. Provide names, addresses, and telephone numbers of three professional references other than those listed in Section VII. G.

Hon. James A. Joven, LAWRENCE TOWNSHIP SMALL CLAIMS COURT, 4455
McCoy Street, Indianapolis, Indiana 46226 (317) 545-2369

Robert R. Clark, TAFT STETTINIUS & HOLLISTER LLP, One Indiana Square,
Suite 3500, Indianapolis, Indiana 46204 (317) 713-3500

Randall R. Fearnow, KREIG DEVAULT, One Indiana Square, Suite 2800,
Indianapolis, Indiana 46204 (317) 965-8574

B. Provide names, addresses, and telephone numbers of three personal references other than those listed in VII. G.

Julie L. Ezell - 4322 Strawflower Drive, Indianapolis, Indiana 46203
(317) 439-319

Lewis E. Willis - 12110 Castle Row Overlook, Carmel, Indiana 46033
(317) 582-1595

Roger Laird - 5112 East Range Road, Shelbyville, Indiana 46176
(317) 392-1339

C. List any lawsuits or legal proceedings in any jurisdiction, including bankruptcies and dissolutions, to which you have been a party. Provide dates, case numbers, names of other parties, and, if needed, a brief explanation.

I filed a small claims matter regarding a furniture purchase in 2005 that was settled and dismissed. I have not been a party to any further lawsuits or legal proceedings.

D. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

I have never been arrested or cited for any violation of the law.

E. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide dates.

Arizona 2003-2005
Nevada 2004-2005

F. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number if applicable, and describe the circumstances and the nature of the outcome or resolution.

My license was administratively revoked for failure to pay annual registration fees after I had left Arizona and was no longer practicing law in the state. I am presently working with the Arizona Disciplinary Commission to have my license reinstated so that I may properly withdraw from the Arizona Bar.

G. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

I have no outstanding federal, state or local tax obligations that I am aware of.

X. A. Attach a recent statement from your physician describing your general physical condition.

A copy of a letter from Dr. Cynthia Williams is attached at Tab 5.

DATE

APPLICANT'S SIGNATURE

PRINTED NAME

WAIVER AND STATEMENT OF CONSENT

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees, may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

DATE

APPLICANT'S SIGNATURE

PRINTED NAME